

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THE 28TH DAY OF MAY 1998

BEFORE:

THE HON'BLE MR.JUSTICE H.RANGAVITTALACHAR

H.R.R.P.NO.164/1994

H.D.Shama Rao,
s/o H.V.Devoji Rao,
60 years,
Businessman,
Residing at Hassan.

Petitioner

(By Sri M.B.Prabhakar)

-VS-

H.V.Jayarama Setty,
major,
c/o M/s Jayaram
Hardwares,
Gandhi Bazar,
Hassan.
(By Sri G.S.Visweshwara)

This revision petition is filed under Section 50 (1) of the Karnataka Rent Control Act, against the order dated 12.10.93 and 22.12.93 passed in HRC No.12/93-94 on the file of the court of House Rent Controller, Hassan.

This revision petition coming on for hearing this day, the court made the following;

ORDER

The petitioner herein is the tenant in respect of a shop premises situate at Hassan. At the relevant time in question he was paying a monthly rent of Rs.400/- p.m. Since the Hassan Municipality was periodically increasing the levy

H. Rv

oA Municipal tax, the respondent owner made an application on 14.6.93 for fixing the fair rent in order to pay the enhanced tax. Notices were served on the parties. The Rent And Accommodation Controller, Hassan on the basis of the Municipal tax assessment for the year 1984-85 fixed the fair rent, the tenant is liable to pay, at Rs.1200/- p.m. This order is challenged by the petitioner-tenant.

The Rent Controller has taken into consideration the rental value of the premises as entered in the property tax register at Rs.1866 for the year 1993-94 and also surrounding rental value of similarly situated building and had fixed the fair rent at Rs.1200/-. Therefore it cannot be said that the Rent Controller has acted illegally or omitted to take into consideration the relevant material.

In so far as the complaint of the petitioner that he was not served with notice before the order was passed is concerned, the same has to be rejected. A reading of the order of the Rent Controller clearly discloses that he was served with notice. No reason is forthcoming as to

H.R.v

why he did not utilise the opportunity. Having failed to make use of the opportunity he cannot now complain that he was denied an opportunity. The other ground made out in the petition that the petitionerr subsequent to the order has made an application for recalling the same, that application has been rejected therefore the order is bad is concerned it has to be stated that there is no power to review the order, as has been held by this court in ILR 1988 Kar.2368. In that view the Rent Controller was perfectly justified in refusing to recall the order.

Petition dismissed.

Sd/-
JUDGE

TS